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NPL-03-3-209

June 7, 1985

Russell H. Wyer, Director
Hazardous Site Control Division
Office of Emergency & Remedial Response
WH-548E
Environmental Protection Agency
401 M Street S.W.
Washington, DC 20460

Re: Dayco Corporation/L.E. Carpenter Co. N.P.L. Listing

Dear Mr. Wyer:

These Comments are offered on behalf of Dayco Corporation and L.E. Carpenter Company in response to the Environmental Protection Agency's April 10, 1985 proposal (50 Federal Register 14115) to amend the National Oil And Hazardous Substances Contingency Plan ("N.C.P.") by updating the National Priorities List ("N.P.L."). The proposed update includes a site operated by the L.E. Carpenter Company in Wharton Borough, New Jersey.

The Hazard Ranking System documents have been carefully reviewed by the company and its consulting engineers. There are several errors contained therein which we believe, if corrected, would make listing of the site inappropriate. Further, it is felt that in light of the voluntary remedial program which has been undertaken by the companies, listing is contrary to the expressed public policy of encouraging voluntary private cleanups. The following comments will address both areas in that order.

I Application of the Hazard Ranking System

The L.E. Carpenter Company is a subsidiary of the Dayco Corporation. For many years, L.E. Carpenter has operated a

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Russell H. Wyer, Director
Page -2-
June 7, 1985

facility in the Borough of Wharton, Morris County, New Jersey, where it manufactures vinyl wall coverings. As part of its waste management program, L.E. Carpenter utilized on-site impoundments and a series of storage tanks. When concerns were raised about potential groundwater contamination, the company submitted a proposal to the New Jersey Department of Environmental Protection (hereinafter "Department") which was designed to assure that operations at the facility continued in an environmentally sound manner and to alleviate any threat of groundwater contamination.

L.E. Carpenter has undertaken an ongoing remedial program in conjunction with the Department. Administrative Consent Orders were entered into between L.E. Carpenter and the Department which set forth the scope of the remedial work. As part of that program, the company has excavated the sludge and adjoining soil from the impoundment and shipped same to a licensed disposal area, all under the supervision of the Department. In doing so, the company's consultants removed approximately 50% more soil than was originally called for in order to ensure that the excavation process encompassed all potentially contaminated soil. L.E. Carpenter has also emptied and tested all storage tanks to insure their integrity and instituted safety measures to guard against potential spills of liquid or solid waste materials. Finally, the company has initiated a groundwater decontamination and monitoring program to reduce the level of total dissolved organics in the groundwater beneath the L.E. Carpenter property to less than 100 parts per billion or to a level at which the Department determines that further decontamination efforts will not improve the quality of the groundwater significantly.

The groundwater decontamination and monitoring program is the focus of current efforts. The company's engineering consultants have placed 10 monitoring wells on site, installed sophisticated sampling equipment and are utilizing an Auto-Skimmer unit which removes solvent floating on the ground water which is then piped to a storage tank to await off-site disposal. The consultant's data indicates that the Auto-Skimmer has been successful in removing in excess of 2,000 gallons of solvent to date. Monitoring data shows that the floating solvent is stable and is not migrating from its general location on site. Presently, preparations are being made to install a groundwater depression well to enhance the flow of the floating solvent to the Auto-Skimmer, thereby increasing the recovery rate. Additionally, the groundwater pumped from the depression well will be treated on site (by air-stripping methods) to remove any volatile organic compounds dissolved in the water. Through its activities, the company has committed itself to a thorough remedial program designed to insure that activities at the L.E. Carpenter property present no hazard to the environment.

Russell H. Wyer, Director
Page -3-
June 7, 1985

As a result of these ongoing efforts by the company, a considerable amount of data has been generated concerning conditions at the L.E. Carpenter site. In reviewing the Hazard Ranking System score sheets there are a number of apparent errors which result from either a misapplication or omission of the appropriate data.

The first area of concern is Figure Two which is the Groundwater Group Worksheet. The company does not question the value assigned to Observed Release on line One. Since there has been an observed release, the next applicable line is Number Four concerning waste characteristics. The company believes that the values assigned for both Toxicity/Persistence and Hazardous Waste Quantity are in error.

By referring to Page Four of the Documentation Record one sees that a maximum value of 18 was assigned for Toxicity/Persistence based upon the alleged presence of chloroform. This value was assigned based upon the presence of chloroform in sample results which are contained in Appendix A. However, chloroform does not appear in a single groundwater sample. Instead, it was reported in a single sample taken on October 18, 1980 from the waste impoundment on the property. As previously noted, all sludge was removed from that impoundment in 1982. It is particularly important to realize that chloroform does not appear in any of the most recent groundwater samples, taken in 1984, which are included in Appendix A. In light of this, the company believes that the use of chloroform as the basis for the Toxicity/Persistence rating factor was in error.

The company has carefully reviewed the applicable data to determine the next highest value which would be obtained for Toxicity/Persistence. Several of the 1984 groundwater samples indicate the presence of both ethylbenzene and xylene. Both of these chemicals are assigned Toxicity values of two and Persistence values of one in Table Four, Waste Characteristic Values For Some Common Chemicals. When these values are entered into the Toxicity/Persistence matrix, the maximum value of nine is obtained for this factor.

With regard to Hazardous Waste Quantity, the assigned value is again based upon the misconception about the continued presence of the sludge in the impoundments. As has been noted, the sludge impoundment and adjoining soil were removed in 1982 under the supervision of the Department. The continued references to the presence of sludge do not accurately reflect conditions at the site. When the sludge quantities are deleted from the calculations and only the 20,000 gallons of recoverable solvent

Russell H. Wyer, Director
Page -4-
June 7, 1985

are considered, the correct assigned value for Hazardous Waste Quantity is three. Thus, the Total Waste Characteristics Score reported on line Four should be revised from 24 to 12.

Line Five concerns Targets and is based upon groundwater use and distance to nearest wells/population served. The company agrees that the figure assigned for groundwater use is accurate. However, the figure of 35 which has been assigned for the second subcategory is obtained by the improper combination of distance and population values. Data is included in the Documentation Record for the distances to the Dover and Wharton wells and the population served by each. It appears that the evaluating personnel assigned a value of three for distance based upon the proximity of the site to wells serving the Borough of Wharton. However, the population value of 5 could be obtained only by using the higher population figures for Dover which draws from different and more distant wells. The proper use of the data would have lead to an assigned value of 2 for distance to the Dover wells and a value of 5 for population served resulting in a combined value of 30 for this figure. The total target score should thus be amended from 44 to 41.

The correction of these erroneous figures greatly reduces the bottom line figures on Figure Two. When the revised calculations called for on line Six are made, the result is revised downward from 47,520 to 22,140. The groundwater route score shown on figure Seven is then changed from 82.89 to 38.62. As will be shown later, this revision is of paramount importance in determining whether the site is an appropriate addition to the National Priorities List.

Figure Seven entails calculations on the Surface Water Route Sheet. L.E. Carpenter believes that the evaluator misread the data provided and concluded that the waste impoundment still existed thereby creating a threat to surface water. Page Seven of the Documentation Record indicates that the alleged continuing existence of the waste impoundment was premised upon the site inspection report filed by Gregory Cunningham which is attached to the Documentation Record. However, if one carefully reads Pages 2, 3, 4, 5, 12 and 14, of said report, in each instance Mr. Cunningham acknowledges that the sludge was removed from the site in 1982. All testing data on the impoundment, such as that referenced on Page Two, was taken from sampling done in 1980, as reported on the first page of Appendix A. Thus, there is nothing in Mr. Cunningham's report to support the conclusion that there is a continued threat to surface water as a result of the existence of a waste impoundment. The company believes that there is no basis for use of the Surface Water Route Worksheet in scoring the site. Thus, the figure of 7.72 entered for the surfacewater route should be changed to Zero.

Russell H. Wyer, Director
Page -5-
June 7, 1985

The absence of any evidence of a release of air contaminants has correctly lead the evaluating personnel to apply a figure of Zero to the Air Route Worksheet.

The final calculations are in Figure Ten which is the worksheet for computing the Migration Hazard Mode. When the correct Groundwater Route Score of 38.62 is entered on Line One and then squared, a figure of 1491.5 is obtained. The revision of the Surface Water Routes score to zero results in that line being blank as well as the Air Route Score. Line Four, which is the combined score for the three routes, remains at 1491.5. Line Five, which is the square route of Line Four, becomes 38.62. The final calculation required by Line Six is to divide Line Five by 1.73 resulting in a Migration Hazard Mode score of 22.32 rather than 48.12 as initially reported.

The consequences of these corrections are extremely significant. As noted in the Federal Register, a cutoff figure of 28.50 on the Migration Hazard Mode score has been used in determining whether a site should be included in the National Priority List. When the figures for the L.E. Carpenter site are correctly tabulated, the revised figure of 22.32 for the Migration Hazard Mode score is well below that which would make it a candidate for the National Priorities List.

II. Public Policy Considerations

Dayco Corporation and the L.E. Carpenter Company submit that the proposed listing of the Wharton facility on the National Priorities List would have unnecessary and undesirable consequences that work against, rather than further, the Environmental Protection Agency's goals in ensuring the cleanup of potential hazardous waste sites.

The need to encourage voluntary remedial measures, in light of the restrictions on available funding, received repeated emphasis in the legislative history predating adoption of the Comprehensive Environmental Response, Compensation and Liability Act of 1980. Section 104(a)(1) embraces that public policy by authorizing removal and remedial actions consistant with the National Contingency Plan unless it has been determined that such removal and remedial actions will be done properly by the owner or operator of the site from which the release of threat of release is emanating. Inclusion on the National Priorities List should be limited to those sites where there will be a need for a fund-financed remedial action or for enforcement under CERCLA. The Wharton site presents neither of these scenarios.

Russell H. Wyer, Director
Page -6-
June 7, 1985

As detailed above, the company has engaged in an ongoing working relationship with the New Jersey Department of Environmental Protection designed to insure that the threat of contamination at the site is abated. As would be expected, there have been disagreements between the parties over the work performed. In each instance, those differences have been amicably resolved. Further, the Department has legal options available to it if it is felt that the cleanup is not proceeding properly. Inclusion of the site on the National Priorities List adds an unnecessary level of bureaucracy that serves no beneficial purpose.

Further, the inclusion of the L.E. Carpenter Site on the N.P.L. runs counter to the express public policy of encouraging voluntary remedial activities. The ongoing congressional debate over reauthorization and funding for Superfund underscores the need to conserve the limited federal funds. Certainly, there are sufficient sites in dire need of study and cleanup activity where private funding is questionable. There is simply no justification for placing a site on the National Priorities List with a potential for expenditure of limited federal funds when the site is the subject of a voluntary, privately-financed cleanup effort.

Inclusion of this site on the National Priorities List will also have serious negative repercussions on the Dayco Corporation and L.E. Carpenter Company. The listing of this site would create the misleading impression that the companies are shirking their environmental responsibilities when nothing can be further from the truth. The practices which created the current situation ceased long ago and remedial efforts have been underway for some time. Nevertheless, clients of these companies and the public in the vicinity of the plant may misinterpret the companies' commitment to environmentally-sound operations in light of the N.P.L. listing.

In light of the above, I urge a reexamination of the data analysis which indicates that this site is not an appropriate one for inclusion on the National Priorities List. Further, the potential for expenditure of federal funds cannot be justified in light of the ongoing program of remedial activity. Your careful consideration of the issues raised in this letter will be greatly appreciated.

Very truly yours,
SCHWARTZ, TOBIA & STANZIALE



BY: STEVEN T. SINGER

STS/lb
cc: Commissioner Robert Hughey